

**Recommendation of the Council for the Administration of Criminal Justice  
and Protection of Juveniles**

- Summary -

**Risks and obstacles related to a longstay order**

*Placement under a hospital order (in Dutch 'Terbeschikkingstelling' or tbs) is a court-imposed treatment measure for persons who have committed a serious offence while suffering from a psychiatric illness or disorder. The aims of tbs are treatment of the disorder and protection of society. Tbs may or may not be imposed in combination with a prison sentence, depending on the person's degree of accountability.*

*Recommendation to the Dutch State Secretary for Security and Justice, dated 26 November 2015*

This recommendation was drawn up in response to the fact that there is only one remaining longstay clinic for those under a hospital order, as a result of the Custodial Institutions Master Plan (Masterplan DJI) for the period 2013-2018. The implications of this situation have not, to date, been properly investigated at a policy level or otherwise (in documents available to the public).

Because all tbs longstay patients (by which are meant those placed under a hospital order in a longstay department) are accommodated in one clinic, this leads to a 'monopoly position' for the clinic and therefore to a risk for the development of a one-sided view of the treatment and approach to tbs longstay patients. This could impede the outflow from the longstay facility. The relevant clinic, Pompestichting, has two longstay locations (in Zeeland and in Vught) which in the current situation are not comparable with respect to the approach and the level of guidance and counselling. This means that it is not (always) possible to transfer tbs longstay patients, for example in connection with a deadlock or an incident. If a tbs longstay patient is (not) transferred to a different longstay location this does not give the right to file a complaint, in the current situation. Furthermore no experience has (yet) been acquired, due in part to insufficient familiarity, with the time-out facility, by which is meant the possibility of transferring a tbs longstay patient temporarily (for a period of seven weeks) under Article 13 of the Hospital Orders Act (Dutch: Beginselenwet verpleging ter beschikking gestelden) to another forensic psychiatric centre with the purpose of observing the involved person.

Concerns were also voiced during the advisory phase, in connection with the Vught longstay location. These concerns correlate with the fact that the longstay facility is embedded in a penitentiary institution. A penitentiary environment is not the ideal environment in which to provide tbs longstay patients with the required high-quality climate for their stay and care needs.

Placement of tbs longstay patients in a penitentiary environment increases the risk, inherent to the placement in an enclosed institution, for hospitalisation, because the patients cannot function as autonomously as in a forensic psychiatric centre. The small size of the Vught longstay location (a total of 24 spaces) reinforces the existing dependence of Pompestichting on the DJI personnel and the facilities at PI-Vught.

Finally, there are also concerns about the Zeer Intensieve Specialistische Zorgafdeling (ZISZ) [English: Specialised Intensive Care Unit] at the Vught longstay location. Despite the efforts of the personnel, it was found during the official visit, that incidents occur almost daily in the small unit (six spaces), that the two isolation cells are used frequently, and that the staff turnover rate is high.

In his recommendation the Council for the Administration of Criminal Justice and Protection of Juveniles (hereafter referred to as the Council) outlines two scenarios with recommendations with which to obviate the risks and obstacles related in the current situation to a stay in a longstay department. An important element in both scenarios is closure of (at least the majority of) the Vught longstay location. The Council recommends that this longstay location be closed in view of the fact that a longstay facility which is embedded in a penitentiary setting, although explained by historical reasons of shortfall in capacity, is currently no longer needed, nor justified.

The first scenario, apart from closure of the (entire) longstay location in Vught, provides for the establishment of a longstay facility in a second forensic psychiatric centre and therewith obviates all of the indicated risks and obstacles.

In the second scenario, which the Council views as a fall-back scenario, the Pompestichting

remains the only clinic for the admission of tbs longstay patients and the majority of the Vught longstay location is closed. Then (out of sheer necessity) the ZSIZ unit remains as the only longstay unit at PI Vught and will become (even more) isolated from Pompestichting, which the Council views as a significant drawback to this scenario.

Other risks and obstacles associated with the 'monopoly position' will be obviated where possible in the second scenario. In that scenario the Council recommends that the practice of temporary transfer ('time-out'), under Article 13 of the Hospital Orders (Care) Act, be reinforced. Temporarily placing a tbs longstay patient in a different clinic could lead to new insights, could provide a breakthrough in a deadlock situation, and could offer a new perspective in the treatment. To facilitate the temporary placement, clinics will have to arrive at proper agreements concerning the conditions under which such transfers will take place. This calls for a flexible and cooperative attitude on the part of the sending and) clinics and also from the Ministry of Security and Justice. To prevent legal issues in the event of a request under Article 13 of the Hospital Orders (Care) Act, it is advisable for forensic psychiatric centres to clearly define the purpose of the time-out (observation) and the conditions that led up to the time-out (like an incident for example). If a temporary transfer is not possible due to practical reasons, the clinic will have to (be able to) get expertise from outside for obtaining the required second opinion otherwise.

Finally, the Council recommends, in this second scenario, that the right of complaint be amended for tbs longstay patients in connection with decisions to transfer (or refrain from transferring) within Pompestichting. This will allow for a better legal position for tbs longstay patients, as their legal position has deteriorated materially due to the Master Plan, and will also create an external check with which to (partially) obviate the risk for the development of a one-sided view.

*The full text of the recommendation can be obtained from the Council's secretariat  
PO Box 30 137  
NL-2500 GC The Hague  
+31 (0)70 - 36 19 300,  
[www.rsj.nl](http://www.rsj.nl)*